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# HOUSE BILL No. 1864

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-5-2-7; IC 20-6.1; IC 34-13; IC 34-30-2-84.5; IC 35-42-4-7.

**Synopsis:** School students and employees. Enables a school corporation to obtain limited and national criminal history checks for all employees rather than only for new employees. Makes conforming changes relating to the policies a school may adopt concerning criminal history checks. Requires a prosecuting attorney to notify the state superintendent of public instruction and the employer when a licensed school employee is convicted of certain offenses. Makes changes in the grounds for which teachers' licenses may be revoked and contracts may be canceled. Requires a governmental entity to pay a judgment (except for punitive damages) of a claim or suit against an employee when the act or omission causing the loss is within the scope of the employee's employment and the governmental entity has the opportunity to defend the employee. Requires a governmental entity to pay a judgment for punitive damages, compromise, or settlement against an employee when: (1) the act or omission causing the loss is within the scope of the employee's employment; (2) the governmental entity has the opportunity to defend the employee; and (3) the compromise or settlement is in the best interest of the governmental entity. Provides that a governmental entity or employee acting in the scope of employment is not liable if a loss results from an injury to a person assigned to a pretrial conditional release program. Provides civil immunity for making certain reports concerning a teacher. Changes the law concerning seduction of a child at least 16 years of age to add certain actions that constitute the offense and to expand coverage to all employees of a child's school.

**Effective:** July 1, 2003.

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## Robertson, Goodin, Torr, Welch

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January 23, 2003, read first time and referred to Committee on Education.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1864

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 20-5-2-7, AS AMENDED BY P.L.272-2001,  
2       SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2003]: Sec. 7. (a) A school corporation, including a school  
4       township, shall adopt a policy concerning criminal history information  
5       for individuals who:

6       (1) apply for:

7           (A) employment with the school corporation; or

8           (B) employment with an entity with which the school  
9       corporation contracts for services;

10       (2) seek to enter into a contract to provide services to the school  
11       corporation; or

12       (3) are employed by an entity that seeks to enter into a contract to  
13       provide services to the school corporation;

14       if the individuals are likely to have direct, ongoing contact with  
15       children within the scope of the individuals' employment.

16       (b) A school corporation, including a school township, shall  
17       administer a policy adopted under this section uniformly for all



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individuals to whom the policy applies. A policy adopted under this section may require any of the following:

(1) The school corporation, including a school township, may request limited criminal history information concerning each applicant for noncertificated employment or certificated employment from a local or state law enforcement agency before or not later than three (3) months after the applicant's employment by the school corporation.

(2) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation to request under IC 5-2-5 limited criminal history information or a national criminal history background check concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation may require the individual to provide a set of fingerprints and pay any fees required for a national criminal history background check.

(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in IC 5-2-5-1(1)) to the school corporation.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under IC 5-2-5;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 5-2-5-1(6)) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

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may be required at the time the contract is formed to comply with the procedures described in ~~subdivision (4)(A) and (4)(B)~~. The school corporation either may require that the individual or the contractor comply with the procedures described in subdivision ~~(4)(C) or (5)~~ subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation. Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract.

(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(d) Information obtained under this section must be used in accordance with IC 5-2-5-6.

SECTION 2. IC 20-6.1-3-7, AS AMENDED BY P.L.37-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) On the written recommendation of the state superintendent, the board may **suspend or** revoke a license for:

- (1) immorality;
- (2) misconduct in office;
- (3) incompetency; or
- (4) willful neglect of duty.

However, for each **suspension or** revocation, the board shall comply with IC 4-21.5-3.

(b) **This subsection applies when a prosecuting attorney knows that a licensed employee of a public school (as defined in IC 20-10.1-1-2) or an accredited nonpublic school has been convicted of an offense listed in subsection (d). The prosecuting attorney shall immediately give written notice of the conviction to the following:**

- (1) The state superintendent.
- (2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority for an accredited nonpublic school.
- (3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.



(c) The superintendent of a school corporation, **presiding officer of the governing body**, or equivalent authority for an accredited nonpublic school shall immediately notify the state superintendent when the person knows that a current or former licensed employee of the **public** school ~~corporation~~ or accredited nonpublic school has been convicted of an offense listed in subsection ~~(c)~~ **(d)**.

~~(c)~~ **(d)** The board, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the board to have been convicted of any of the following offenses:

**(1) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**

**(2) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**

**(3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.**

~~(2)~~ **(4) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.**

~~(3)~~ **(5) Child molesting (IC 35-42-4-3).**

~~(4)~~ **(6) Child exploitation (IC 35-42-4-4(b)).**

~~(5)~~ **(7) Vicarious sexual gratification (IC 35-42-4-5).**

~~(6)~~ **(8) Child solicitation (IC 35-42-4-6).**

~~(7)~~ **(9) Child seduction (IC 35-42-4-7).**

~~(8)~~ **(10) Sexual misconduct with a minor (IC 35-42-4-9).**

~~(9)~~ **(11) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.**

**(12) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).**

**(13) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).**

**(14) Dealing in a schedule IV controlled substance (IC 35-48-4-3).**

**(15) Dealing in a schedule V controlled substance (IC 35-48-4-4).**

**(16) Dealing in a counterfeit substance (IC 35-48-4-5).**

**(17) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).**

~~(d)~~ **(e)** A license may be suspended by the state superintendent as specified in IC 20-6.1-4-13.

SECTION 3. IC 20-6.1-4-10, AS AMENDED BY P.L.228-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An indefinite contract with a permanent teacher may be canceled in the manner specified in section 11 of this



chapter ~~for only~~ **for one (1) or more of** the following grounds:

- (1) Immorality.
- (2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.
- (3) Neglect of duty.
- (4) Incompetency.
- (5) Justifiable decrease in the number of teaching positions.
- (6) A conviction for
  - (A) ~~rape (IC 35-42-4-1); if the victim is less than eighteen (18) years of age;~~
  - (B) ~~criminal deviate conduct (IC 35-42-4-2); if the victim is less than eighteen (18) years of age;~~
  - (C) ~~child molesting (IC 35-42-4-3);~~
  - (D) ~~child exploitation (IC 35-42-4-4(b));~~
  - (E) ~~vicarious sexual gratification (IC 35-42-4-5);~~
  - (F) ~~child solicitation (IC 35-42-4-6);~~
  - (G) ~~child seduction (IC 35-42-4-7);~~
  - (H) ~~sexual misconduct with a minor as a Class A or B felony (IC 35-42-4-9); or~~
  - (I) ~~incest (IC 35-46-1-3); if the victim is less than eighteen (18) years of age; or~~**an offense listed in IC 20-6.1-3-7(d).**
- (7) Other good and just cause.

When the cause of cancellation is ground (1), (2), or (6), the cancellation is effective immediately. When the cause of cancellation is ground (3), (4), (5), or (7), the cancellation is effective at the end of the school term following the cancellation.

(b) An indefinite contract may not be canceled for political or personal reasons.

SECTION 4. IC 20-6.1-4-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.5. (a) An indefinite contract with a semipermanent teacher may be canceled in the manner specified in section 11 of this chapter only for **one (1) or more of** the following grounds:

- (1) Immorality.
- (2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.
- (3) Neglect of duty.
- (4) Substantial inability to perform teaching duties.
- (5) Justifiable decrease in the number of teaching positions.



(6) Good and just cause.

(7) The cancellation is in the best interest of the school corporation.

(8) A conviction for

(A) ~~rape (IC 35-42-4-1)~~; if the victim is less than eighteen (18) years of age;

(B) ~~criminal deviate conduct (IC 35-42-4-2)~~; if the victim is less than eighteen (18) years of age;

(C) ~~child molesting (IC 35-42-4-3)~~;

(D) ~~child exploitation (IC 35-42-4-4(b))~~;

(E) ~~vicarious sexual gratification (IC 35-42-4-5)~~;

(F) ~~child solicitation (IC 35-42-4-6)~~;

(G) ~~child seduction (IC 35-42-4-7)~~; or

(H) ~~incest (IC 35-46-1-3)~~; if the victim is less than eighteen (18) years of age.

**an offense listed in IC 20-6.1-3-7(d).**

(b) An indefinite contract with a semipermanent teacher may not be canceled for political or personal reasons.

(c) Before the cancellation of a semipermanent teacher's indefinite contract, the principal of the school at which the teacher teaches shall provide the teacher with a written evaluation of the teacher's performance before January 1 of each year. Upon the request of a semipermanent teacher, delivered in writing to the principal within thirty (30) days after the teacher receives the evaluation required by this section, the principal shall provide the teacher with an additional written evaluation.

SECTION 5. IC 34-13-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee whose conduct gave rise to the claim resulting in that judgment or settlement.

(b) **This subsection applies when the governmental entity defends or has the opportunity to defend an employee for losses resulting from the employee's acts or omissions.** The governmental entity shall pay: ~~any judgment, compromise, or settlement of a claim or suit against an employee when:~~

- (1) **any judgment (other than for punitive damages) of a claim or suit against an employee when** the act or omission causing the loss is within the scope of the employee's employment; ~~and or~~
- (2) **any judgment for punitive damages, compromise, or settlement of a claim or suit against an employee when the act or omission causing the loss is within the scope of the**

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**employee's employment, and the:**

(A) governor, in the case of a claim or suit against a state employee; or

(B) ~~the~~ governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision;

determines that paying the judgment **for punitive damages**, compromise, or settlement is in the best interest of the governmental entity.

(c) The governmental entity shall pay all costs and fees incurred by or on behalf of an employee in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss.

(d) This chapter shall not be construed as:

(1) a waiver of the eleventh amendment to the Constitution of the United States;

(2) consent by the state of Indiana or its employees to be sued in any federal court; or

(3) consent to be sued in any state court beyond the boundaries of Indiana.

SECTION 6. IC 34-13-3-3, AS AMENDED BY P.L.1-2002, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.

(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only

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- 1 by persons operating extreme sport equipment.
- 2 This subdivision shall not be construed to relieve a governmental
- 3 entity from liability for the continuing duty to maintain extreme
- 4 sports areas in a reasonably safe condition.
- 5 (6) The initiation of a judicial or an administrative proceeding.
- 6 (7) The performance of a discretionary function; however, the
- 7 provision of medical or optical care as provided in IC 34-6-2-38
- 8 shall be considered as a ministerial act.
- 9 (8) The adoption and enforcement of or failure to adopt or enforce
- 10 a law (including rules and regulations), unless the act of
- 11 enforcement constitutes false arrest or false imprisonment.
- 12 (9) An act or omission performed in good faith and without
- 13 malice under the apparent authority of a statute which is invalid
- 14 if the employee would not have been liable had the statute been
- 15 valid.
- 16 (10) The act or omission of anyone other than the governmental
- 17 entity or the governmental entity's employee.
- 18 (11) The issuance, denial, suspension, or revocation of, or failure
- 19 or refusal to issue, deny, suspend, or revoke any permit, license,
- 20 certificate, approval, order, or similar authorization, where the
- 21 authority is discretionary under the law.
- 22 (12) Failure to make an inspection, or making an inadequate or
- 23 negligent inspection, of any property, other than the property of
- 24 a governmental entity, to determine whether the property
- 25 complied with or violates any law or contains a hazard to health
- 26 or safety.
- 27 (13) Entry upon any property where the entry is expressly or
- 28 impliedly authorized by law.
- 29 (14) Misrepresentation if unintentional.
- 30 (15) Theft by another person of money in the employee's official
- 31 custody, unless the loss was sustained because of the employee's
- 32 own negligent or wrongful act or omission.
- 33 (16) Injury to the property of a person under the jurisdiction and
- 34 control of the department of correction if the person has not
- 35 exhausted the administrative remedies and procedures provided
- 36 by section 7 of this chapter.
- 37 (17) Injury to the person or property of a person under supervision
- 38 of a governmental entity and who is:
- 39 (A) on probation; or
- 40 (B) assigned to an alcohol and drug services program under
- 41 IC 12-23, a minimum security release program under
- 42 IC 11-10-8, **a pretrial conditional release program under**

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1           **IC 35-33-8**, or a community corrections program under  
 2           **IC 11-12**.

3           (18) Design of a highway (as defined in **IC 9-13-2-73**) if the  
 4           claimed loss occurs at least twenty (20) years after the public  
 5           highway was designed or substantially redesigned; except that  
 6           this subdivision shall not be construed to relieve a responsible  
 7           governmental entity from the continuing duty to provide and  
 8           maintain public highways in a reasonably safe condition.

9           (19) Development, adoption, implementation, operation,  
 10          maintenance, or use of an enhanced emergency communication  
 11          system.

12          (20) Injury to a student or a student's property by an employee of  
 13          a school corporation if the employee is acting reasonably under a  
 14          discipline policy adopted under **IC 20-8.1-5.1-7(b)**.

15          (21) An error resulting from or caused by a failure to recognize  
 16          the year 1999, 2000, or a subsequent year, including an incorrect  
 17          date or incorrect mechanical or electronic interpretation of a date,  
 18          that is produced, calculated, or generated by:

- 19               (A) a computer;
- 20               (B) an information system; or
- 21               (C) equipment using microchips;

22          that is owned or operated by a governmental entity. However, this  
 23          subdivision does not apply to acts or omissions amounting to  
 24          gross negligence, willful or wanton misconduct, or intentional  
 25          misconduct. For purposes of this subdivision, evidence of gross  
 26          negligence may be established by a party by showing failure of a  
 27          governmental entity to undertake an effort to review, analyze,  
 28          remediate, and test its electronic information systems or by  
 29          showing failure of a governmental entity to abate, upon notice, an  
 30          electronic information system error that caused damage or loss.  
 31          However, this subdivision expires June 30, 2003.

32          (22) An act or omission performed in good faith under the  
 33          apparent authority of a court order described in **IC 35-46-1-15.1**  
 34          that is invalid, including an arrest or imprisonment related to the  
 35          enforcement of the court order, if the governmental entity or  
 36          employee would not have been liable had the court order been  
 37          valid.

38          **SECTION 7. IC 34-13-3-5, AS AMENDED BY P.L.192-2001,**  
 39          **SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**  
 40          **JULY 1, 2003]: Sec. 5. (a) Civil actions relating to acts taken by a**  
 41          **board, a committee, a commission, an authority, or another**  
 42          **instrumentality of a governmental entity may be brought only against**

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the board, the committee, the commission, the authority, or the other instrumentality of a governmental entity. A member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity may not be named as a party in a civil suit that concerns the acts taken by a board, a committee, a commission, an authority, or another instrumentality of a governmental entity where the member was acting within the scope of the member's employment. For the purposes of this subsection, a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity is acting within the scope of the member's employment when the member acts as a member of the board, committee, commission, authority, or other instrumentality.

(b) A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity, whose conduct gave rise to the claim resulting in that judgment or settlement. A lawsuit alleging that an employee acted within the scope of the employee's employment ~~must be exclusive to the complaint and~~ bars an action by the claimant against the employee personally. However, if the governmental entity answers that the employee acted outside the scope of the employee's employment, the plaintiff may amend the complaint and sue the employee personally. An amendment to the complaint by the plaintiff under this subsection must be filed not later than one hundred eighty (180) days from the date the answer was filed and may be filed notwithstanding the fact that the statute of limitations has run.

(c) A lawsuit filed against an employee personally must allege that an act or omission of the employee that causes a loss is:

- (1) criminal;
- (2) clearly outside the scope of the employee's employment;
- (3) malicious;
- (4) willful and wanton; or
- (5) calculated to benefit the employee personally.

The complaint must contain a reasonable factual basis supporting the allegations.

(d) **This subsection applies when the governmental entity defends or has the opportunity to defend an employee for losses resulting from the employee's acts or omissions.** Subject to the provisions of sections 4, 14, 15, and 16 of this chapter, the governmental entity shall pay: ~~any judgment, compromise, or settlement of a claim or suit against an employee when;~~

- (1) **any judgment (other than for punitive damages) of a claim**

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1 **or suit against an employee when** the act or omission causing  
 2 the loss is within the scope of the employee's employment,  
 3 regardless of whether the employee can or cannot be held  
 4 personally liable for the loss; **and or**

5 **(2) any judgment for punitive damages, compromise, or**  
 6 **settlement of a claim or suit against an employee when the act**  
 7 **or omission causing the loss is within the scope of the**  
 8 **employee's employment, regardless of whether the employee**  
 9 **may or may not be held personally liable for the loss, and the:**

10 (A) governor in the case of a claim or suit against a state  
 11 employee; or

12 (B) governing body of the political subdivision, in the case of  
 13 a claim or suit against an employee of a political subdivision;  
 14 determines that paying the judgment **for punitive damages,**  
 15 compromise or settlement is in the best interest of the  
 16 governmental entity.

17 (e) The governmental entity shall provide counsel for and pay all  
 18 costs and fees incurred by or on behalf of an employee in defense of a  
 19 claim or suit for a loss occurring because of acts or omissions within  
 20 the scope of the employee's employment, regardless of whether the  
 21 employee can or cannot be held personally liable for the loss.

22 (f) This chapter shall not be construed as:

23 (1) a waiver of the eleventh amendment to the Constitution of the  
 24 United States;

25 (2) consent by the state of Indiana or its employees to be sued in  
 26 any federal court; or

27 (3) consent to be sued in any state court beyond the boundaries of  
 28 Indiana.

29 SECTION 8. IC 34-13-4-1, AS AMENDED BY P.L.192-2001,  
 30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2003]: Sec. 1. If a present or former public employee,  
 32 including a member of a board, a committee, a commission, an  
 33 authority, or another instrumentality of a governmental entity, is or  
 34 could be subject to personal civil liability for a loss occurring because  
 35 of a noncriminal act or omission within the scope of the public  
 36 employee's employment which violates the civil rights laws of the  
 37 United States, the governmental entity **(when the governmental entity**  
 38 **defends or has the opportunity to defend the public employee)**  
 39 shall, subject to IC 34-13-3-4, IC 34-13-3-14, IC 34-13-3-15, and  
 40 IC 34-13-3-16, pay:

41 **(1) any judgment ~~compromise, or settlement~~ (other than for**  
 42 **punitive damages) of the claim or suit; ~~when: or~~**

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1       **(2) any judgment for punitive damages, compromise, or**  
 2       **settlement of the claim or suit if:**

3       (1) **(A)** the governor, in the case of a claim or suit against a  
 4       state employee; or

5       (2) **(B)** the governing body of the political subdivision, in the  
 6       case of a claim or suit against an employee of a political  
 7       subdivision;

8       determines that paying the judgment **for punitive damages,**  
 9       compromise, or settlement is in the best interest of the governmental  
 10      entity. The governmental entity shall also pay all costs and fees  
 11      incurred by or on behalf of a public employee in defense of the claim  
 12      or suit.

13      SECTION 9. IC 34-30-2-84.5 IS ADDED TO THE INDIANA  
 14      CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 15      [EFFECTIVE JULY 1, 2003]: **Sec. 84.5. IC 20-6.1-3-7 (Concerning**  
 16      **a person who makes a report concerning a teacher).**

17      SECTION 10. IC 35-42-4-7, AS AMENDED BY P.L.228-2001,  
 18      SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19      JULY 1, 2003]: Sec. 7. (a) As used in this section, "adoptive parent"  
 20      has the meaning set forth in IC 31-9-2-6.

21      (b) As used in this section, "adoptive grandparent" means the parent  
 22      of an adoptive parent.

23      (c) As used in this section, "child care worker" means a person who:

24      (1) provides care, supervision, or instruction to a child within the  
 25      scope of the person's employment in a ~~public or private school or~~  
 26      shelter care facility; or

27      (2) is employed by a:

28      (A) school corporation; or

29      (B) nonpublic school;

30      **attended by a child who is the victim of a crime under this**  
 31      **chapter.**

32      (d) As used in this section, "custodian" means any person who  
 33      resides with a child and is responsible for the child's welfare.

34      (e) **As used in this section, "nonpublic school" has the meaning**  
 35      **set forth in IC 20-10.1-1-3.**

36      (f) **As used in this section, "school corporation" has the meaning**  
 37      **set forth in IC 20-10.1-1-1.**

38      (g) As used in this section, "stepparent" means an individual who is  
 39      married to a child's custodial or noncustodial parent and is not the  
 40      child's adoptive parent.

41      (1) **(h)** If a person who is:

42      (1) at least eighteen (18) years of age; and

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1 (2) the:  
2 (A) guardian, adoptive parent, adoptive grandparent,  
3 custodian, or stepparent of; or  
4 (B) child care worker for;  
5 a child at least sixteen (16) years of age but less than eighteen  
6 (18) years of age;  
7 engages **with the child** in sexual intercourse, ~~or~~ deviate sexual conduct  
8 (as defined in IC 35-41-1-9), ~~with the child,~~ **or any fondling or**  
9 **touching with the intent to arouse or satisfy the sexual desires of**  
10 **either the child or the adult,** the person commits child seduction, a  
11 Class D felony.

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